

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

WSOU INVESTMENTS LLC D/B/A	§
BRAZOS LICENSING AND	§ C.A. NO. 6:20-cv-00487-ADA
DEVELOPMENT,	§ C.A. NO. 6:20-cv-00488-ADA
	§ C.A. NO. 6:20-cv-00489-ADA
<i>Plaintiff,</i>	§ C.A. NO. 6:20-cv-00490-ADA
v.	§ C.A. NO. 6:20-cv-00491-ADA
ZTE CORPORATION, ZTE (USA) INC.	§ C.A. NO. 6:20-cv-00492-ADA
AND ZTE (TX), INC.,	§ C.A. NO. 6:20-cv-00493-ADA
	§ C.A. NO. 6:20-cv-00494-ADA
<i>Defendants.</i>	§ C.A. NO. 6:20-cv-00495-ADA
	§ C.A. NO. 6:20-cv-00496-ADA
	§ C.A. NO. 6:20-cv-00497-ADA
	§

FOURTH STATUS REPORT REGARDING PENDING VENUE MOTIONS

Pursuant to the Court’s March 23, 2021 Standing Order Regarding Motion for Inter-District Transfer (“Standing Order”), Defendants ZTE Corporation (“ZTE Corp.”), ZTE (USA) Inc. (“ZTA”), and ZTE (TX), Inc. (“ZTX”) (collectively “ZTE”) provide the following fourth status report regarding the pending venue-related motions with respect to the eleven separate pending suits filed by Plaintiff WSOU Investments LLC D/B/A Brazos Licensing and Development (“WSOU”):¹

1. ZTE filed its respective Sur-Reply and Reply Supplemental Claim Construction briefs today, May 7, 2021. As such, the parties’ respective claim construction briefing has concluded. The *Markman* hearing for these cases was recently rescheduled/consolidated from May 20-21, 2021 to just May 21, 2021 (*less than two weeks away*). See Dkt. 72.

¹ There are 11 pending cases. Citations throughout refer to new WDTX Case Nos. -00487 through -00497, and specific citations reference to the docket for WDTX Case No. -00487.

2. In contrast to the claim construction briefing, the venue briefing has yet to conclude. In fact, WSOU no longer represents it will conclude discovery before the *Markman* hearing. *Compare* Dkt. 76 with Dkt. 68 (WSOU stating that venue discovery “should be complete by April 30”). Nevertheless, the *Markman* hearing remains several weeks before the conclusion of the venue discovery in the cases on June 4, 2021 (and the remaining briefing for the Second Motion to Dismiss)—and, as stated above, is just a few weeks away. In the unlikely event that WSOU immediately completes venue discovery, the briefing-hearing-ruling process will not be complete before the *Markman* hearing. As such, the venue issues ***will not*** be resolved before the currently-scheduled *Markman* hearing.

3. Thus, as outlined in the pending Motion to Stay (which is ripe for resolution), Dkt. No. 49, and in accordance with the Standing Order and Federal Circuit mandate/precedent,² Defendants again respectfully request that all issues unrelated to venue be stayed, pending the outcome of the Second Motion to Dismiss.

DATED: May 7, 2021

Respectfully submitted,

/s/Lionel M. Lavenue

Lionel M. Lavenue
 Virginia Bar No. 49,005
 lionel.lavenue@finnegan.com
**FINNEGAN, HENDERSON, FARABOW,
 GARRETT & DUNNER, LLP**
 1875 Explorer Street, Suite 800
 Reston, VA 20190
 Phone: (571) 203-2700
 Fax: (202) 408-4400

ATTORNEY FOR DEFENDANTS

² See *In re TracFone Wireless, Inc.*, 2021-118, 2021 WL 865353 (Fed. Cir. Mar. 8, 2021) (district courts must give venue motions “top priority before resolving the substantive issues in the case”); see also *See In re Apple*, 979 F.3d 1332, 1337 (Fed. Cir. 2020) (resolution of venue issues should “unquestionably take top priority” in a case); and *In re SK Hynix Inc.*, No. 2021-113, 2021 WL 321071, at *1 (Fed. Cir. Feb. 1, 2021) (prioritization of venue considerations).

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system on May 7, 2021.

/s/Lionel M. Lavenue

Lionel M. Lavenue